

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:05CV286-03-MU

SHAWN LEE LEGRAND, )  
                          )  
Plaintiff,            )  
                          )  
v.                     )  
                          )  
DANIELLE B. SHAW; PHYLLIS BUCHANAN, )  
                          )  
Defendants.            )  
                          )  
\_\_\_\_\_

**ORDER**

**THIS MATTER** comes before the Court on the Court's own motion.

According to the record, on April 14, 2005, the Plaintiff filed a civil rights Complaint under 42 U.S.C. § 1983. By that Complaint, the Plaintiff essentially alleged violations of his rights under the Eighth Amendment.

The record shows that on October 11, 2005, Defendants filed an Answer to the Plaintiff's Complaint. By their Answer, the Defendants deny the material allegations of the Plaintiff's Complaint and assert certain affirmative defenses, including the defense of qualified and sovereign immunity, failure to state a claim for relief and failure to exhaust.

Accordingly, by the instant Order, the Court advises the parties that dispositive motions, particularly motions for summary judgment, must be filed within forty five (45) days of the date of this Order. In the event that the parties choose not to file any such motions, they should advise the Court of that fact within twenty (20) days of the date of this Order. Furthermore, inasmuch as the plaintiff is appearing pro se, the Court specifically advises him that under the provisions of Rule 56(a) of the Federal Rules of Civil Procedure, he may "move with or without supporting

affidavits for a summary judgment" in his favor upon all or any portion of his claims.

**NOW, THEREFORE, IT IS ORDERED:**

1. That the parties have forty five (45) days from the date of this Order in which to file any dispositive motions which they may choose to file. However, in the event that either party chooses not to file a dispositive motion, such party shall advise the Court of that decision within twenty (20) days of the date of this Order;
2. That in the event any such dispositive motion is filed, the opposing party shall have thirty (30) days from the date of that party's receipt of that motion in which to file a response with this Court; and
3. That the Clerk shall provide plaintiff with a copy of Rule 56 of the Federal Rules of Civil Procedure.

**Signed: October 17, 2005**



A handwritten signature in black ink, appearing to read "Graham C. Mullen", is written over a horizontal line.

Graham C. Mullen  
Chief United States District Judge

